PUBLIC LAW 99-348—JULY 1, 1986

MILITARY RETIREMENT REFORM ACT OF 1986

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Public Law 99-348
99th Congress

An Act

July 1, 1986
[H.R. 4420]

To amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military Retirement Reform Act of 1986.
Armed Forces.
10 USC 1401 note.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Military Retirement Reform Act of 1986".

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 10, United States Code; table of contents.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

Sec. 101. Retired pay multiplier.
Sec. 102. Adjustments of retired and retainer pay to reflect changes in the Consumer Price Index.
Sec. 103. Restoral at age 62 of retired pay multiplier and cost-of-living adjustments.
Sec. 104. Consolidation of retired pay base provisions.
Sec. 105. Rules of construction for purposes of computing retired pay.
Sec. 106. Years of service for computing retired pay.

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

Sec. 201. Retired pay computed under subtitle A.
Sec. 202. Members of the Army.
Sec. 203. Members of the Navy and Marine Corps.
Sec. 204. Members of the Air Force.
Sec. 205. Members of the Coast Guard.
Sec. 206. Commissioned officers of the National Oceanic and Atmospheric Administration.
Sec. 207. Commissioned officers of the Public Health Service.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

Sec. 301. Survivor Benefit Plan annuities.
Sec. 302. Report on reserve retirement system.
Sec. 303. Definition.
Sec. 304. Technical and conforming amendments.
Sec. 305. Codification of permanent limitations on retired and retainer pay provided in appropriation Acts.
Sec. 306. Repeal of limitation on payments to accrual fund for fiscal year 1986.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

Sec. 401. Authority for obligation of certain unauthorized fiscal year 1986 defense appropriations.
Sec. 402. Limitation on obligation of certain unauthorized appropriations.
Sec. 403. Authorized military construction project.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Under Secretary of Defense for Acquisition.
Sec. 502. Limitation on expenditure of funds to procure T-46 trainer aircraft.
Sec. 503. Postponement of a certain Department of Defense contract.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

SEC. 101. RETIRED PAY MULTIPLIER

Chapter 71 (relating to computation of retired pay) is amended by adding at the end the following new section:

"§ 1409. Retired pay multiplier 10 USC 1409.

"(a) RETIRED PAY MULTIPLIER FOR REGULAR-SERVICE NON-DISABILITY RETIREMENT.—In computing—

"(1) the retired pay of a member of a uniformed service who is retired under any provision of law other than—

"(A) chapter 61 of this title (relating to retirement or separation for physical disability); or 10 USC 1201 *et seq.*

"(B) chapter 67 of this title (relating to retirement for non-regular service); or 10 USC 1331 *et seq.*

"(2) the retainer pay of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, *Post*, p. 696.

the retired pay multiplier (or retainer pay multiplier) is the percentage determined under subsection (b).

"(b) PERCENTAGE.—

"(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the percentage to be used under subsection (a) is the product (stated as a percentage) of—

"(A) 2½, and

"(B) the member's years of creditable service (as defined in subsection (c)).

"(2) REDUCTION APPLICABLE TO NEW-RETIREMENT MEMBERS WITH LESS THAN 30 YEARS OF SERVICE.—In the case of a member who first became a member of a uniformed service after July 31, 1986, has less than 30 years of creditable service, and is under the age of 62 at the time of retirement, the percentage determined under paragraph (1) shall be reduced by—

"(A) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

"(B) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year.

"(3) 75 PERCENT LIMIT.—In the case of a member with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

"(c) YEARS OF CREDITABLE SERVICE DEFINED.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

SEC. 102. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

(a) IN GENERAL.—Section 1401a (relating to adjustments in retired pay to reflect changes in the Consumer Price Index) is amended by

striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

"(1) IN GENERAL.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

"(2) PRE-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index.

"(3) POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member who first became a member on or after August 1, 1986, by the difference between—

"(A) the percent determined under paragraph (2); and

"(B) 1 percent.

"(4) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(d) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the base index, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b), the retired pay of a member of an armed force who first became a member of a uniformed service on or after August 1, 1986, shall be increased on the effective date of the first adjustment

of retired pay under subsection (b) after the member becomes entitled to retired pay only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay.".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking out the second sentence of subsection (a); and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'price index' means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

"(2) The term 'base quarter' means the calendar quarter ending on September 30 of each year.

"(3) The term 'base index' means the price index for the base quarter for the most recent adjustment under subsection (b).

"(4) The term 'retired pay' includes retainer pay.

"(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.".

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of such section is amended—

(A) by inserting "PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY.—" after "(a)"; and

(B) by striking out "or retainer".

(2) Subsection (f) of such section is amended—

(A) by inserting "PREVENTION OF PAY INVERSIONS.—" after "(f)"; and

(B) by striking out "or retainer" each place it appears.

SEC. 103. RESTORAL AT AGE 62 OF RETIRED PAY MULTIPLIER AND COST-OF-LIVING ADJUSTMENTS

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1409 (as added by section 101) the following new section:

"§ 1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986 10 USC 1410.

"(a) GENERAL RULE.—In the case of a member who first became a member of a uniformed service on or after August 1, 1986, and who becomes entitled to retired pay before the age of 62, the retired pay of such member shall be recomputed, effective on the first day of the first month beginning after the member attains 62 years of age, so as to be the amount equal to—

"(1) the amount of the member's initial unreduced retired pay, increased by

"(2) the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the most recent base quarter ending more than 31 days before the date the member attains 62 years of age, exceeds

"(B) the price index for the calendar quarter immediately before the date the member first became entitled to retired pay.

"(b) DEFINITIONS.—

"(1) In this section, the term 'initial unreduced retired pay' means the amount of retired pay—

"(A) to which the member was entitled when the member first became entitled to retired pay; or

"(B) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, to which the member would have been entitled on the date of the member's retirement without regard to that section.

Ante, p. 683.

"(2) The definitions in subsection (g), and the provisions of subsection (h), of section 1401a of this title apply to this section.".

Ante, p. 683.

SEC. 104. CONSOLIDATION OF RETIRED PAY BASE PROVISIONS

(a) TRANSFER OF SECTION 1406.—Section 1406 is transferred to the end of chapter 67, redesignated as section 1338, and amended—

10 USC 1338.

(1) by designating the first sentence as subsection (a) and striking out "chapter 67 of this title" both places it appears therein and inserting in lieu thereof "this chapter"; and

(2) by designating the second sentence as subsection (b).

(b) CONSOLIDATION OF STATUTES.—Chapter 71 (relating to the computation of retired pay) is amended by striking out section 1407 and inserting in lieu thereof the following:

10 USC 1406.

"§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

"(1) GENERAL RULE.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(2) EXCEPTION FOR RECOMPUTATION.—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base.

Post, p. 694.

"(b) RETIREMENT UNDER SUBTITLE A.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
1201 1202 1204 1205	Monthly basic pay[1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.
1331	Monthly basic pay[2] of highest grade held satisfactory by person at any time in the armed forces.

"For a member entitled to retired pay under section:	The retired pay base is:
564 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.
633 634 635 636 1251	Monthly basic pay[3] of member's retired grade.[4]

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.
[2] Compute at rates applicable on date when retired pay is granted.
[3] Compute at rates applicable on date of retirement.
[4] For the purposes of this subsection, determine member's retired grade as if sections 3962(b) and 8962(b) did not apply.

"(c) VOLUNTARY RETIREMENT FOR MEMBERS OF THE ARMY.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 3991 of this title or who is entitled to retired pay computed under section 3992 of this title, the retired pay base is determined in accordance with the following table.

Post, p. 694.
Post, p. 695.

"For a member entitled to retired pay under section:	The retired pay base is:
3911 3918 3920 3924	Monthly basic pay of member's retired grade.[1]
3914 3917	Monthly basic pay to which member was entitled on day before he retired.
3992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 3962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(d) RETIREMENT FOR MEMBERS OF THE NAVY AND MARINE CORPS.—In the case of a member whose retired pay is computed under section 6333 of this title, who is advanced on the retired list under section 6151 of this title, or who is entitled to retainer pay under section 6330 of this title, the retired pay base or retainer pay base is determined in accordance with the following table.

Post, p. 695.
Post, p. 696.

"For a member entitled to retired or retainer pay under section:	The retired pay base or retainer pay base is:
6323 6325(a) 6383	Basic pay of the grade in which the member retired.[1]
6325(b)	Basic pay of the grade the officer would hold if he had not received an appointment described in section 6325(b).
6326	Basic pay of the pay grade in which the member was serving on the day before retirement.
6330	Basic pay that the member received at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.
6151	Basic pay of the grade to which the member is advanced under section 6151.

[1] If the rate specified is less than the pay of any warrant officer grade satisfactorily held by the member on active duty, use the monthly basic pay of that warrant officer grade.

"(e) VOLUNTARY RETIREMENT FOR MEMBERS OF THE AIR FORCE.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 8991 of this title or who is entitled to retired pay computed under section 8992 of this title, the retired pay base is determined in accordance with the following table.

Post, p. 697.
Post, p. 698.

"For a member entitled to retired pay under section:	The retired pay base is:
8911 8918 8920 8924	Monthly basic pay of member's retired grade.[1]
8914 8917	Monthly basic pay to which member was entitled on day before he retired.
8992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 8962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(f) COAST GUARD.—In the case of a member who is retired under any section of title 14, the member's retired pay is computed under section 423(a) of title 14 in the manner provided in that section.

Post, p. 699.

"(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is

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computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the retired pay base is the basic pay of the rank with which the officer retired. 33 USC 853o.

"(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows: *Post*, pp. 701, 702.

"(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired pay base is the basic pay of the permanent grade held by the officer at the time of retirement.

"(2) VOLUNTARY RETIREMENT.—If the officer is retired under section 211(a) of such Act, the retired pay base is the basic pay of the highest grade held by the officer and in which, in the case of a temporary promotion to such grade, the officer has performed active duty for not less than six months.

"(i) SPECIAL RULE FOR FORMER CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, AND SENIOR ENLISTED MEMBERS.—

"(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman of the Joint Chiefs of Staff, as a Chief of Service, or as the senior enlisted member of an armed force, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

"(2) DEFINITIONS.—In this subsection:

"(A) The term 'Chief of Service' means any of the following:

"(i) Chief of Staff of the Army.

"(ii) Chief of Naval Operations.

"(iii) Chief of Staff of the Air Force.

"(iv) Commandant of the Marine Corps.

"(v) Commandant of the Coast Guard.

"(B) The term 'senior enlisted member' means any of the following:

"(i) Sergeant Major of the Army.

"(ii) Master Chief Petty Officer of the Navy.

"(iii) Chief Master Sergeant of the Air Force.

"(iv) Sergeant Major of the Marine Corps.

"(v) Master Chief Petty Officer of the Coast Guard.

"§ 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average 10 USC 1407.

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service after September 7, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(b) HIGH-THREE AVERAGE.—The retired pay base or retainer pay base of a member under this section is the member's high-three average determined under subsection (c).

"(c) COMPUTATION OF HIGH-THREE AVERAGE.—

"(1) FORMULA.—For the purposes of this section, a member's high-three average is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled for the member's high-36 months, divided by

"(B) 36.

"(2) HIGH-36 MONTHS DEFINED.—

"(A) GENERAL RULE.—A member's high-36 months are the 36 months out of all the months of active duty served by the member as a member of a uniformed service for which the monthly basic pay to which the member was entitled was the highest.

"(B) RULE FOR NON-REGULAR SERVICE RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title or under chapter 67 of this title, a member's high-36 months are the 36 months out of all the months the member was a member of a uniformed service before becoming entitled to retired pay for which the monthly basic pay to which the member would have been entitled had he served on active duty during those months was the highest.

10 USC 1331 *et seq.*

"(d) LIMITATION FOR ENLISTED MEMBERS RETIRING WITH LESS THAN 30 YEARS' SERVICE.—In the case of a member who is retired under section 3914 or 8914 of this title or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member's high-36 average shall be computed using only rates of basic pay applicable to months of active duty of the member as an enlisted member.

Post, p. 696.

"(e) SPECIAL RULES FOR SHORT-TERM DISABILITY RETIREES.—

"(1) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1201 OR 1202.—In the case of a member who—

"(A) is entitled to retired pay under section 1201 or 1202 of this title; and

"(B) served on active duty for less than 36 months,

the months (including any fraction thereof) that the member served on active duty shall be deemed to be the member's high-36 months.

"(2) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1204 OR 1205.—In the case of a member who—

"(A) is entitled to retired pay under section 1204 or 1205 of this title; and

"(B) was a member of a uniformed service for less than 36 months,

the months (including any fraction thereof) that the member was such a member shall be deemed to be the member's high-36 months.

"(f) SPECIAL RULE FOR MEMBERS RETIRING WITH NON-REGULAR SERVICE.—

"(1) DISABILITY RETIREMENT.—In the case of a member of a uniformed service who is entitled to retired pay under section 1204 or 1205 of this title (relating to members on active duty for 30 days or less), the high-36 average is determined as if the member served on active duty and was entitled to basic pay for the member's high-36 months.

"(2) CHAPTER 67 RETIREMENT.—In the case of a person who is entitled to retired pay under section 1331 of this title (relating to retired pay for non-regular service), the person's high-36

average is determined as if the person served on active duty and was entitled to basic pay for the person's high-36 months.

"(g) DEFINITION.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

(c) CONFORMING AMENDMENTS.—

(1) Sections 5083 and 5201(c) are each amended by striking out the last sentence.

(2) Section 6325(c) is amended by striking out the last sentence.

SEC. 105. RULES OF CONSTRUCTION FOR PURPOSES OF COMPUTING RETIRED PAY

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1410 (as added by section 103) the following new sections:

10 USC 1411.

"§ 1411. Rules of construction

"(a) CONSTRUCTION OF 'FIRST BECAME A MEMBER'.—For purposes of this chapter and other provisions of law providing for computation of retired or retainer pay of members of the uniformed services, a person shall be considered to first become a member of a uniformed service on the date the person is first enlisted, inducted, or appointed in a uniformed service.

"(b) REFERENCES IN TABLES.—Section references in tables in this chapter are to sections of this title.

10 USC 1412.

"§ 1412. Rounding to next lower dollar

"Amounts computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 106. YEARS OF SERVICE FOR COMPUTING RETIRED PAY

Section 1405 (relating to determination of years of service for computation of retired pay) is amended—

(1) by striking out the matter preceding clause (1) and inserting in lieu thereof "(a) IN GENERAL.—For the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding—"; and

(2) by adding at the end the following:

"(b) FRACTIONAL YEARS OF SERVICE.—In determining a member's years of service under subsection (a)—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a month shall be disregarded.".

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

SEC. 201. RETIRED PAY COMPUTED UNDER SUBTITLE A

(a) DOPMA OFFICERS AND WARRANT OFFICERS.—Section 1401 (relating to computation of retired pay) is amended—

(1) by inserting "(a) DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.—" before "The monthly";

(2) by striking out the third, fourth, and fifth sentences;

(3) by striking out column 1 of the table and inserting in lieu thereof the following:

"Column 1 Take
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.";

(4) by striking out the matter relating to formulas 4 and 5 under columns 2, 3, and 4 of the table and inserting in lieu thereof the following:

"The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405		
The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405.";		

(5) by striking out "pay" each place it appears in columns 3 and 4 of the table and inserting in lieu thereof "retired pay base";

(6) by striking out footnotes 1, 2, 4, and 5 of the table and redesignating footnote 3 as footnote 1;

(7) by redesignating the references to footnote 3 in column 2 of the table to conform to the redesignation made by paragraph (6); and

(8) by adding at the end the following new subsection:

"(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.".

(b) RECOMPUTATION FOR LATER ACTIVE DUTY.—

(1) FORMULA FOR RECOMPUTATION OF NEW RETIREMENT MEMBERS.—Subsection (a) of section 1402a (relating to recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980) is amended to read as follows:

"(a) IN GENERAL.—A member of an armed force—

"(1) who first became a member of a uniformed service after September 7, 1980;

"(2) who has become entitled to retired pay or retainer pay; and

"(3) who thereafter serves on active duty (other than for training),

is entitled to recompute his retired pay or retainer pay upon release from that duty according to the following table.

"Column 1 Take	Column 2 Multiply by
Retired pay base or retainer pay base under section 1407 which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	The retired pay multiplier or retainer pay multiplier prescribed in section 1409 for the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.".

(2) TECHNICAL AMENDMENTS.—Such section is further amended—

(A) by inserting "NEW DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (b) after "(b)";

(B) by inserting "ADDITIONAL OR AGGRAVATED DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (c) after "(c)";

(C) in subsection (d)—

(i) by inserting "COMPUTATION FOR LATER DISABILITY.—" after "(d)";

(ii) by striking out the second sentence; and

(iii) by striking out "monthly" both places it appears in the table; and

(D) by inserting "ALTERNATIVE RECOMPUTATION TO SUBSECTION (a) FORMULA.—" in subsection (e) after "(e)".

Post, p. 703.

(3) CONFORMING AMENDMENTS.—Section 1402 is amended by striking out the second sentence of subsections (a) and (d).

SEC. 202. MEMBERS OF THE ARMY

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 3991 (relating to computation of retired pay) is amended to read as follows:

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For Sections	Column 1 Take	Column 2 Multiply by
A	3911 3918 3920 3924	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	3914 3917	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 3925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

Ante, p. 691.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 3992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 3925 of this title.[1]
B	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 3925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title— *Ante*, p. 694.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

SEC. 203. MEMBERS OF THE NAVY AND MARINE CORPS

(a) RETIRED AND RETAINER PAY FORMULA.—Section 6333 is amended to read as follows:

"§ 6333. Computation of retired and retainer pay 10 USC 6333.

"(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table. *Post*, p. 696.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	6325(a) 6326	Retired pay base computed under section 1406(d) or 1407.	75 percent.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
B	6323 6325(b) 6383	Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	6330	Retainer pay base computed under section 1406(d) or 1407.	Retainer pay multiplier prescribed under section 1409 for his years of active service in the armed forces.

"(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(2) References in the table in subsection (a) are to sections of this title.".

(b) CONFORMING AMENDMENTS.—

10 USC 6322.

(1) Section 6322 is amended by striking out subsection (c).

(2) Section 6323(e) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

Ante, p. 695.

(3) Section 6325 is amended by striking out "retired pay—" in subsections (a)(2) and (b)(2) and all that follows in those subsections and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(4) Section 6326(c)(2) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(5) Section 6328 is repealed.

(6) Section 6330(c) is amended—

(A) by striking out "retainer pay—" in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "retainer pay computed under section 6333 of this title."; and

(B) by striking out paragraph (4).

(7) Section 6383 is amended—

(A) by striking out "retired pay—" in subsection (c)(2) and all that follows in that subsection and inserting in lieu thereof "retired pay computed under section 6333 of this title."; and

(B) by striking out subsection (k).

(c) MEMBERS ADVANCED ON RETIRED LIST.—Section 6151 (relating to higher retired grade and pay for members who serve satisfactorily under temporary appointments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.

"(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the number of years of service creditable for his retainer pay at the time of retirement.".

SEC. 204. MEMBERS OF THE AIR FORCE

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 8991 (relating to computation of retired pay) is amended to read as follows: 10 USC 8991.

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	8911 8918 8920 8924	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	8914 8917	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 8925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 8914 of this title has been credited by the Secretary of the Air Force with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

Ante, p. 691.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 8992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 8925 of this title.[1]
B	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 8925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title—

Ante, p. 697.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded.".

SEC. 205. MEMBERS OF THE COAST GUARD

(a) IN GENERAL.—Section 423 of title 14, United States Code (relating to the computation of retired pay), is amended to read as follows:

"§ 423. Computation of retired pay 14 USC 423.

"(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

"(A) the sum of—

"(i) the basic pay of the member's retired grade or rate, and

"(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

"(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title. *Ante*, p. 683. *Ante*, p. 691.

"(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

"(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

"(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

"(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10; by *Ante*, p. 689.

"(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

"(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

"(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as $\frac{1}{12}$ of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of such title is amended by striking out "and retired pay computed at the highest rates of basic pay ap- 14 USC 46.

plicable to him while he served as Commandant" in subsections (a), (b), and (c).

14 USC 47.

(2) Section 47 of such title is amended—

(A) by striking out "and retired pay" in subsections (b) and (c); and

(B) by striking out "and with the retired pay of that grade" in subsection (d).

14 USC 51.

(3) Section 51 of such title is amended—

(A) by striking out "and retired pay" in subsections (a) and (b); and

(B) by striking out "and with the retired pay of that grade" in subsection (c).

Ante, p. 699.

(4) Section 288(b) of such title is amended by striking out "Except as provided in section 423(b) of this title, the retired pay" and inserting in lieu thereof "Retired pay computed under section 423(a) of this title".

(5) Sections 291, 292, and 293 of such title are amended by striking out ", with retired pay of the grade with which retired".

(6) Section 327(b)(1) of such title is amended by striking out ", and with the pay".

(7) Section 334 of such title is amended—

(A) by striking out ", with retired pay of the grade with which retired" in subsections (a) and (b); and

(B) by striking out the second sentence of subsection (b).

(8) Sections 353, 354, 355, and 362 of such title are amended by striking out ", with retired pay of the grade or rating with which retired".

(9) Section 357 is amended—

(A) by striking out "the retired pay of the grade or rating with which retired" in subsection (b) and inserting in lieu thereof "retired pay"; and

(B) by striking out "by an amount" and all that follows in subsection (c) and inserting in lieu thereof "by an amount equal to 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under section 423(a) of this title; or

Ante, p. 689.
Ante, p. 699.

"(2) the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title.".

(10) Sections 421 and 422 of such title are amended by striking out "rating" each place it appears and inserting in lieu thereof "rate".

(11) Section 424 of such title is amended to read as follows:

14 USC 424.

"§ 424. Limitations on retirement and retired pay

"(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

"(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2)

the retired pay base determined under section 1407 of title 10, as appropriate.". *Ante*, p. 689.

SEC. 206. COMMISSIONED OFFICERS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 16 of the Coast and Geodetic Survey Commissioned Officers Act of 1948 (33 U.S.C. 853o) is amended to read as follows: 33 USC 853o.

"SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by *Ante*, p. 686.

"(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces. *Ante*, p. 691.

The retired pay so computed may not exceed 75 percent of the retired pay base.

"(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10, United States Code; by

"(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces. *Ante*, p. 683.

"(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

"(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 207. COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE

(a) MANDATORY RETIREMENT.—Section 210(g)(3) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2½ percent of the retired pay base determined under section 1406(h) of title 10, United States Code, for each year, not in excess of 30, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, at the rate determined by multiplying—

"(i) the retired pay base determined under section 1407 of title 10, United States Code; by

"(ii) the retired pay multiplier determined under section 1409 of such title for the number of years of his active commissioned service in the Service.".

(b) VOLUNTARY RETIREMENT.—Paragraph (6) of section 211(a) of such Act (42 U.S.C. 212(a)) is amended to read as follows:

"(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

"(A) the retired pay base determined under section 1407 of title 10, United States Code; by

Ante, p. 689.

"(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).".

Ante, p. 683.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

SEC. 301. SURVIVOR BENEFIT PLAN ANNUITIES

(a) UNREDUCED RETIRED PAY AS BASIS FOR ANNUITY.—

10 USC 1447.

(1) Section 1447(2)(A) (relating to the definition of "base amount" for purposes of the Survivor Benefit Plan) is amended by inserting "(determined without regard to any reduction under section 1409(b)(2) of this title)" after "retired or retainer pay" the second place it appears.

(2) Section 1451 is amended by adding at the end the following new subsection:

"(h) Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(3) Section 1452(c) is amended by adding at the end the following new sentence: "Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(b) COST-OF-LIVING ADJUSTMENTS.—Section 1451(g)(1) is amended—

(1) by striking out "by the same total percent" in the first sentence; and

(2) by inserting after the first sentence the following new sentence: "The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).".

(c) RESTORAL OF COLA.—Section 1451 is amended by adding after subsection (h) (as added by subsection (a)(2)) the following new subsection:

"(i) In the case of an annuity under the Plan which is computed on the basis of the retired pay of a member or former member who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who died before attaining such age, such annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, on the basis of the amount of retired pay to which the member or former member would have been entitled upon recomputation of such pay effective on such date under section 1410 of this title, had the member or former member attained such age.".

Ante, p. 685.

SEC. 302. REPORT ON RESERVE RETIREMENT SYSTEM

10 USC 1331 note.

10 USC 1331 *et seq.*

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report on the retirement system provided under chapter 67 of title 10, United States Code, for members of the Armed

Forces performing non-regular-service. The Secretary shall include in the report any proposals of the Secretary for modifications to such system.

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1988.

SEC. 303. DEFINITION

Section 101 (relating to definitions for purposes of title 10) is amended by adding at the end the following new paragraph: 10 USC 101.

"(43) 'Uniformed services' means—

"(A) the armed forces;

"(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(C) the commissioned corps of the Public Health Service.".

SEC. 304. TECHNICAL AND CONFORMING AMENDMENTS

(a) UNIFORMED SERVICES DEFINITION.—

(1) Section 716 is amended by striking out subsection (c). 10 USC 716.

(2) Section 1040(c) is amended by striking out " 'Dependent' and 'uniformed services' in this section have the meanings of those terms as defined in" and inserting in lieu thereof "In this section, the term 'dependent' has the meaning given that term in".

(3) Section 1402 is amended by striking out "(as defined in section 1407(a)(2) of this title)" each place it appears. *Ante*, p. 694.

(4) Section 2830 is amended by striking out subsection (c).

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 67 is amended by adding at the end the following new item: 10 USC 1331.

"1338. Limitations on revocation of retired pay.".

(2) The table of sections at the beginning of chapter 71 is amended— 10 USC 1401.

(A) by striking out the item relating to section 1402 and inserting in lieu thereof the following:

"1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.";

(B) by striking out the items relating to sections 1406 and 1407 and inserting in lieu thereof the following:

"1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.

"1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.";

and

(C) by adding at the end the following new items:

"1409. Retired pay multiplier.

"1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986.

"1411. Rules of construction.

"1412. Rounding to next lower dollar.".

(3) The heading of section 1402 is amended to read as follows:

"§ 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980".

10 USC 6321.

(3) The table of sections at the beginning of chapter 571 is amended—

(A) by striking out the item relating to section 6328; and

(B) by striking out the item relating to section 6333 and inserting in lieu thereof the following:

"6333. Computation of retired and retainer pay.".

SEC. 305. CODIFICATION OF PERMANENT LIMITATIONS ON RETIRED AND RETAINER PAY PROVIDED IN APPROPRIATION ACTS

(a) LIMITATION ON CREDITING CERTAIN UNSERVED SERVICE IN ENTITLEMENT TO AND COMPUTATION OF RETAINER PAY.—

10 USC 6330.

(1) CODIFICATION.—Section 6330(d) is amended—

(A) by inserting "(1)" after "(d)";

(B) by striking out the second sentence; and

(C) by adding at the end the following:

"(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

"(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

"(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

"(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

"(i) a completed minority enlistment of the member is counted as four years of active service; and

"(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

"(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted.".

(2) REPEAL OF SOURCE LAW.—Section 8039 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1930)), is repealed.

10 USC 6330 note.

(b) SIX-MONTH ROUNDING RULE.—

10 USC 1401 note.

(1) GENERAL RULE.—Retired pay or retainer pay may not be paid to a covered member of the Armed Forces (as defined in paragraph (3)) for any month in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served.

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to a member who before January 1, 1982—

(A) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve;

(B) was being processed for retirement under the provisions of chapter 61 of title 10, United States Code, or who was on the temporary disability retired list and thereafter retired under the provisions of section 1210(c) or 1210(d) of such title; or 10 USC 1201 *et seq.*

(C) was retired or in an inactive status and would have been eligible for retired pay under the provisions of chapter 67 of such title, but for the fact that the person was under 60 years of age. 10 USC 1331 *et seq.*

(3) DEFINITION OF COVERED MEMBER.—For the purposes of this subsection, the term "covered member of the Armed Forces" means a member of the Armed Forces who became entitled to retired or retainer pay during the period beginning on January 1, 1982, and ending on September 30, 1983.

(4) REPEAL OF SOURCE LAW.—Section 8054 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473), is repealed. 10 USC 1401 note.

(5) CROSS REFERENCE.—For the effective date of October 1, 1983, for provisions making permanent programmatic changes in law to accomplish the policy provided in such section 8054 (and prior provisions of law), see section 923(h) of the Department of Defense Authorization Act, 1984 (Public Law 98-94). 97 Stat. 642.

SEC. 306. REPEAL OF LIMITATION ON PAYMENTS TO ACCRUAL FUND FOR FISCAL YEAR 1986

Section 666 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 659), is repealed.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

SEC. 401. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 DEFENSE APPROPRIATIONS

(a) AUTHORITY.—The amounts described in subsection (b), totaling $5,446,930,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1986 defense appropriations except as otherwise provided in section 402 (and except as such amounts may have been reduced by the order of the President issued for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985). *Post*, p. 706. 2 USC 902.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1986 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1986 defense authorizations.

(c) DEFINITIONS.—For the purposes of this title:

(1) FISCAL YEAR 1986 DEFENSE APPROPRIATIONS.—The term "fiscal year 1986 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1986 in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190). 99 Stat. 1185.

(2) FISCAL YEAR 1986 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1986 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for

fiscal year 1986 in the Department of Defense Authorization Act, 1986 (Public Law 99-145).

99 Stat. 583.

(d) INTERPRETATION OF SECTION.—The authority provided by subsection (a) shall be considered to be the authorization required by section 8109 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222).

SEC. 402. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

(a) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in section 401(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1986 defense appropriations):

Ante, p. 705.

(1) Refueling tanker modification under Procurement for the Navy in the amount of $110,000,000.

(2) Research, development, test, and evaluation for the Air Force—

(A) for the Space Defense System in the amount of $15,066,000; and

(B) for the MEECN communications upgrade program in the amount of $15,000,000.

(3) Operation and maintenance for audit/inventory report reductions not taken in fiscal year 1986 defense appropriations in the total amount of $29,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) 120-MILLIMETER MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), for procurement of the 120-millimeter mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in section 8095 of such Act and in the joint explanatory statement of the committee of conference on the bill S. 1160 (99th Congress), printed in House Report 99-235.

99 Stat. 1185.

99 Stat. 1219.

99 Stat. 583.

(2) M72E4 LIGHT ANTIARMOR WEAPON.—Using funds appropriated in such Act, the Secretary of the Army shall—

(A) complete development and operational testing of the M72E4 light antiarmor weapon;

(B) type classify the weapon; and

(C) acquire a technical data package.

(3) PRIOR REPORTS TO CONGRESS.—Amounts authorized in section 401(a) for procurement of follow-on air defense equipment for the Army and amounts authorized for research, development, test, and evaluation for the Army for DIVAD alternatives may not be obligated or expended until the Secretary of Defense submits to the appropriate committees of Congress a report setting forth in detail the manner in which funds are proposed to be obligated or expended for such purpose.

(d) PROGRAM LIMITATIONS.—All limitations and requirements set forth in the Department of Defense Authorization Act, 1986, shall apply to the obligation of funds authorized by section 401(a) in the same manner as if the funds made available for obligation by such section had been authorized in such Act.

(e) TRANSFER AUTHORITY.—For the purposes of section 1401 the Department of Defense Authorization Act, 1986 (99 Stat. 742), authorizations in section 401(a) shall be deemed to have been made available to the Department of Defense in such Act.

SEC. 403. AUTHORIZED MILITARY CONSTRUCTION PROJECT

(a) AUTHORIZED PROJECT.—

(1) AUTHORIZATION.—The Secretary of the Navy may carry out the military construction project described in paragraph (2), funds for such project having been appropriated in the Military Construction Appropriations Act, 1986 (Public Law 99-173; 99 Stat. 1024).

(2) PROJECT DESCRIPTION.—The project referred to in paragraph (1) is a project for the construction of a berthing pier and bulkhead at the Naval Station, Staten Island, New York. The amount authorized for the project is $39,700,000. New York.

(b) CONSTRUCTION WITH PUBLIC LAW 99-167.— 99 Stat. 961.

(1) PROJECT AUTHORIZATIONS.—The project authorization in subsection (a) shall be deemed to have been included in section 201(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 966).

(2) APPROPRIATION AUTHORIZATION TOTALS.—The total amount authorized to be appropriated for the Department of the Navy set forth in section 602(a) of such Act (99 Stat. 980), and the amount authorized for military construction projects inside the United States set forth in paragraph (1) of that section, shall be deemed to be increased by the amount specified in subsection (a)(2).

(3) LIMITATION RELATING TO FUNDS FOR NAVAL STRATEGIC HOMEPORTING.—For the purposes of section 205 of such Act (99 Stat. 971), amounts available for the project authorized in subsection (a) shall be deemed to be funds appropriated pursuant to an authorization in section 602 of such Act for Naval Strategic Homeporting.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) CREATION OF POSITION.—Chapter 4 of title 10, United States Code, is amended by inserting after section 134 the following new section:

"§ 134a. Under Secretary of Defense for Acquisition: appointment 10 USC 134a.

"(a) There is an Under Secretary for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law.".

(b) REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Subsection (a) of section 135 of such title is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is an Under Secretary of Defense for Policy and a Director of Defense Research and Engineering. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.".

(2) The second sentences of subsections (b) and (c) of such section are amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

10 USC 135 note.

(3) The redesignation by paragraph (1) of the position of Under Secretary of Defense for Research and Engineering as Director of Defense Research and Engineering does not affect the appointment to such position of the individual holding such position on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 136a(d) of such title is amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(d) EXECUTIVE SCHEDULE POSITIONS.—(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Defense for Acquisition.".

(2) Section 5314 of such title is amended—

(A) by striking out "Under Secretaries of Defense (2)" and inserting in lieu thereof "Under Secretary of Defense for Policy"; and

(B) by adding at the end the following:

"Director of Defense Research and Engineering.".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 135 of title 10, United States Code, is amended to read as follows:

10 USC 135.

"§ 135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence".

10 USC 131.

(2) The table of sections at the beginning of chapter 4 of such title is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"134a. Under Secretary of Defense for Acquistion: appointment.
"135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence.".

SEC. 502. LIMITATION ON EXPENDITURE OF FUNDS TO PROCURE T-46 TRAINER AIRCRAFT

None of the funds appropriated to the Department of Defense for fiscal year 1986 may be obligated or expended for procurement of T-46 trainer aircraft until—

(1) a fiscal year 1987 Defense Authorization Act is enacted which authorizes appropriations for procurement of the T-46 aircraft; or

(2) October 1, 1986, if a fiscal year 1987 Defense Authorization Act is not enacted by such date.

SEC. 503. POSTPONEMENT OF A CERTAIN DEPARTMENT OF DEFENSE CONTRACT

Weapons.
Foreign interest.

(a) POSTPONEMENT UNTIL POLICY ESTABLISHED BY LAW.—The Secretary of Defense may not award a contract with respect to Defense Construction Supply Center Solicitation numbered DLA700-85-B-4-4607 (for the purchase of 178 crawler tractors) until Congress by law establishes a policy concerning the award of defense contracts to firms in which a foreign government (or a wholly owned instrumentality of a foreign government) has a significant interest.

(b) EXCEPTIONS AT END OF 99TH CONGRESS.—Notwithstanding subsection (a), if Congress as of the date of the sine die adjournment of the 99th Congress—

(1) has not completed action on legislation establishing a policy described in subsection (a), such a contract may be awarded after the date of such sine die adjournment; or

(2) has completed action on legislation establishing such a policy and the President has not yet approved or disapproved such legislation, such a contract may be awarded after the date the President approves or declines to approve such legislation.

Approved July 1, 1986.

LEGISLATIVE HISTORY—H.R. 4420 (S. 2395):

HOUSE REPORTS: No. 99-513 (Comm. on Armed Services) and No. 99-659 (Comm. of Conference).
SENATE REPORTS: No. 99-292 accompanying S. 2395 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed House.
May 14, 15, considered and passed Senate, amended, in lieu of S. 2395.
June 25, Senate agreed to conference report.
June 26, House agreed to conference report.

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